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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,857

08/10/2006

Richard Kent

W-377-02

7236

43840 7590 11/25/2008  
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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT

PAPER NUMBER

2855

MAIL DATE

DELIVERY MODE

11/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,857	KENT, RICHARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gail Verbitsky	2855	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-19 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-16 is/are objected to.
- 8) ☒ Claim(s) 20-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/10/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application is in condition for allowance except for the presence of claims 20-24 directed to an invention non-elected with traverse in the reply filed on 09/10/2008.

As indicated previously, claims 20-24 require different search since they are differently classified and require different search.

Claims 20-24 will be allowable if claim 20 is dependent on claim 1. For example:

A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for detecting leaks in an **instrument of claim 1**, said method steps comprising:

The prosecution of this case is closed except for consideration of the above matter.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --Leak detector having a self-heated control circuit--.

### ***Claim Objections***

Claims 1, 10 and 17 are objected to because of the following informalities:  
Perhaps applicant should insert --fluid-- or --liquid or air-- before "leak" in line 1 of claim 1, before "leaks" in line 1 of claim 10 in order to clearly describe the invention.  
Appropriate correction is required.

***Allowable Subject Matter***

Claims 1-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1-16 would be allowed because the prior art fail to teach or fairly suggest a leak detector and a method comprising a sensing circuit including a first thermistor adapted to detect a leak upon contact with a liquid, and a second thermistor functioning as a reference device; means for driving said first and second thermistors with a current such that the first and second thermistors operate in self-heated mode at a temperature above an ambient temperature, a comparing means for comparing a voltage at a reference point in said sensing circuit including said first thermistor with a voltage at a reference point in said sensing circuit including said second thermistor and determining leak condition based on the basis of the comparison results, in combination with the remaining limitations of claims 1-16.

Claims 17-19 are allowed because the prior art fail to teach or fairly suggest a control circuit for a leak detector comprising means for driving said first and second thermistors with a current such that both thermistors operate in self-heated mode at a temperature above an ambient temperature; a control system for controlling said driving means, a comparing means for comparing a voltage at a reference point in said sensing circuit including said first thermistor with a voltage at a reference point in said sensing circuit including said second thermistor and determining leak condition based on the basis of the comparison results, in combination with the remaining limitations of claims 17-19.

***Response to Arguments***

Applicant's arguments filed 09/10/2008 have been fully considered but they are not persuasive. Applicant states that the Inventions of groups I and II are related as the

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apparatus and method. This argument is not persuasive because the preamble of claim 20 is directed to a device (not a method); the device is a computer (program storage device) which is classified in class 711.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gail Verbitsky whose telephone number is 571/ 272-2253. The examiner can normally be reached on 7:30 to 4:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571/ 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Gail Verbitsky*  
*Primary Patent Examiner, TC 2800*

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November 17, 2008  
/Gail Verbitsky/  
Primary Examiner, Art Unit 2855